

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	Group Art Unit: 2627
ROBERT GLENN BISKEBORN)	
)	
SERIAL NO.: 10/754,392)	Confirmation No.: 7827
)	
FILED: January 9, 2004)	
)	Examiner: Mark S. Blouin
FOR: FLY HEIGHT EXTRACTION SYSTEM)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In response to the restriction requirement mailed on June 4, 2007, Applicant hereby elects,
as follows:

ELECTION

Applicant elects, with traverse, method claims 1-10 and 21-30 for continued prosecution.

REMARKS

This Election is submitted in response to the Restriction Requirement mailed on June 4, 2007, in which election was required between method and system claims. Applicant has elected method claims 1-10 and 21-30 for continued prosecution. Applicant respectfully traverses the restriction requirement and requests reconsideration and withdrawal or modification of the restriction under 37 C.F.R. 1.143. Under 35 U.S.C. 121 and 37 C.F.R. 1.142, restriction can only

be imposed if two or more inventions are both independent and distinct. MPEP 803, allowing restriction where inventions are either independent or distinct, is not supported by the patent statute or the Office's own regulations, and does not have the force of law in any event. In the present case, the system claims are intended to cover any system for practicing the method claims and are thus commensurate in scope with the method claims.

Even assuming that MPEP 803 correctly states the law, it requires that there be a serious burden on the examiner if restriction is not required. Searching both the system and method claims would not appear to impose a serious burden insofar as the fields of search would substantially overlap and the examiner would be remiss if he did not search both of class 360/103 and class 356/507+. Accordingly, reconsideration is respectfully requested.

Respectfully submitted,

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